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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,718	10/01/2004	Hyung Joo Kim	61282.00018	4384

30256 7590 06/16/2006

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PALO ALTO, CA 94304-1043

EXAMINER
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MARTIN, PAUL C

ART UNIT	PAPER NUMBER
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1655

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,718	<b>Applicant(s)</b> KIM ET AL.	
	<b>Examiner</b> Paul C. Martin	<b>Art Unit</b> 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 2 and 4 are pending in this application and were examined on their merits.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

All objections and rejections not repeated in the instant Action have been withdrawn due to Applicant's response to the previous Action.

#### ***Claim Rejections - 35 USC § 112***

This rejection is maintained for reasons of record set forth in the paper mailed 01/03/06, (slightly altered to take into consideration Applicant's amendment filed 05/08/06).

Claims 2 and 4 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Nowhere in the instant claims of specification is described what toxic materials are being detected nor what electrochemically active bacteria are being utilized to perform this detection, and therefore one of skill in the art would not have concluded that the inventors were in possession of the claimed invention.

Applicant's arguments filed 05/08/06 have been fully considered but they are not deemed to be persuasive.

### ***Response to Arguments***

Applicant refers to a representative example of microorganism *S. putrefaciens* which is described in U.S. 5,976,719, however this reference has not been incorporated by reference into the instant specification. The instantly filed specification and claims only contain reference to "electrochemically active bacteria" with no further explanation or description as to what bacteria of the innumerable species thereof, are encompassed by the instantly claimed invention. Further, no explanation is found as to what "toxic materials" are being detected by these bacteria, toxic materials in the broadest interpretation of the claim could range from plastics to potassium cyanide.

### **New Objections/Rejections**

This is an objection and a rejection necessitated by the applicant's amendment filed 01/03/06.

#### ***Claim Objections***

Claim 2 is objected to because of the following informalities: The phrase "in a sample water" should be changed to "in a water sample" for purposes of clarity. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 2 contains the phrase, "...active bacteria in the sludge are attached to an electrode in the anode compartment and enrichment culture, simultaneously or subsequently...". It is unclear what exactly is happening upon introduction of activated sludge to the anode compartment, whether the active bacteria attaching to the anode constitutes the formation of an enrichment culture or whether the addition bacteria are added to the enrichment culture.

Claim 2 recites the limitations "the suspension and unwanted materials in a sample water" and "electrochemically active bacteria in the sludge" in part b) of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 contains the phrase, "...attaching an electrochemically active bacteria at the time of entering activated sludge...". It is unclear from this phrase whether the activated sludge contains the electrochemically active bacteria and/or whether the bacteria and sludge are added simultaneously or not.

### ***Conclusion***

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul C. Martin whose telephone number is 571-272-3348. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Martin  
Examiner  
Art Unit 1655

06/06/06

**PATRICIA LEITH**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read "Patricia Leith", written in a cursive style.